

H.R. 4479 to repeal the oil company subsidies and give a break to consumers and small businesses.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

MEDICARE PRESCRIPTION DRUG BENEFIT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, Medicare part D, confusing, complicated, very costly. In fact, the Bush administration lied about the cost. They had estimates that said it would cost \$750 billion to \$1 trillion, but they suppressed that to get votes from conservatives on their side. They said not a penny more than 400 million, and it is very costly to seniors.

We now have 3 million seniors who have fallen into something called the donut hole. They get to spend \$2,600 out of pocket before they get any more Medicare prescription drug benefit, and they have to pay a higher price for the drugs during that time period than they could get at the local drugstore, let alone getting it from Canada or if it was centrally purchased by the government.

We have it in our power to fix it today, save the taxpayer \$750 billion, get the seniors out of the donut hole, but they are going to say it is the custom and practice of the House not to consider such things.

The custom and the practice of the House is to fix problems confronting the people of the United States of America. It is cleared on my side of the aisle. If he objects, it is only the Republicans who object.

Mr. Speaker, I ask unanimous consent to take up the bill, H.R. 752.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

Mr. DEFAZIO. The Republicans have objected.

□ 1115

MILITARY COMMISSIONS ACT OF 2006

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, the Military Commissions Act, which we are taking up today, will not make us more secure. It will endanger American personnel overseas, undermine the Geneva conventions, and give a get-out-of-jail-free card to people who may have committed war crimes.

If an American is captured in North Korea, Iran, Syria, or Somalia and held and interrogated under the same kangaroo court process this bill will create, every single Member of this House would be outraged at that miscarriage of justice.

The public is tired of a Republican majority that retreats to fear-mongering instead of trying to find constructive solutions to the serious security problems facing Americans. The Republicans refuse to screen for nuclear bomb material coming in in ships, they refuse to screen cargo going onto American passenger planes, and they refuse to require that chemical plants in our country have mandatory security built around them.

By passing this bill today, we are lowering our standards and we are encouraging other countries to lower their standards as well. And it will be the American troops captured on a future battlefield who will pay the price.

DO-LESS-THAN-NOTHING CONGRESS

(Ms. CORRINE BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CORRINE BROWN of Florida. Mr. Speaker, working families are feeling the financial squeeze now more than ever. At a time when gas prices, tuition bills, and housing costs are skyrocketing, real wages for full-time workers are declining.

Low-income families are suffering even more, with the lowest inflation adjustment minimum wage in 50 years. The Bush economy has made it difficult for the income of all working Americans to keep up with the rising costs. Democrats have a plan to reserve these misguided tax cuts and redirect them to the middle class and working people who need them most.

Mr. Speaker, since the Republicans in this body have refused to raise the minimum wage for the past 9 years, and since they seem intent on adjourning this body before taking up a straight up-or-down vote on raising it, I now ask unanimous consent to bring up H.R. 2429, Congressman GEORGE MILLER's Fair Minimum Wage Act.

The SPEAKER pro tempore. Under the settled guidelines previously cited, that request cannot be entertained.

Ms. CORRINE BROWN of Florida. Cannot be entertained under the Republican leadership.

REPUBLICANS HAVE GOOD RECORD IN PASSING COMMON-SENSE ENERGY SOLUTIONS

(Mr. WESTMORELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WESTMORELAND. Mr. Speaker, over the last year, House Republicans have focused on common sense energy solutions to help lower gas prices, create jobs for American workers, and reduce America's reliance on foreign energy sources. And what have the Democrats done? Democrats voted against the Deep Ocean Energy Resources Act, which would create thousands of family wage American jobs and allow more

of our energy resources to be produced in the deep seas while empowering States to protect their coastlines.

Democrats voted against the Refinery Permit Process Schedule Act, which would encourage new refinery capacity in order to increase gasoline supplies and drive down high prices.

Democrats voted against the American-Made Energy and Good Jobs Act, authorizing environmentally safe energy production in ANWR, creating 1 million family wage jobs and increasing the supply of American-made energy to lower gasoline prices.

Mr. Speaker, I keep hearing from the other side of the aisle this refrain of the "do-nothing Congress." I would say it is more the "do-nothing Democrats." Republicans have a strong record in passing commonsense energy solutions, something Democrats can't claim.

It is time for the other side to quit whining and start working.

CONGRESS SHOULD MAKE COLLEGE MORE AFFORDABLE TODAY BY PASSING LABOR-HHS BILL

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLYBURN. Mr. Speaker, for 6 years now, Washington Republicans have done absolutely nothing to help college students better afford college. President Bush promised to increase Pell Grants during his first presidential election in 2000, but has refused to live up to that promise. The maximum Pell Grant has been frozen for 4 straight years, and now only covers 32 percent of tuition costs.

Inaction was not the problem earlier this year when the Republican Congress raided student aid programs. Our Republican colleagues raided \$12 billion from college education programs, forcing the Education Department to raise interest rates on college loans to over 8 percent.

Democrats reject these Republican actions. At a time when college students are confronting skyrocketing tuition costs, we think this Congress should be coming up with creative solutions to help college students better afford their education.

Today, we should pass an improved Labor-HHS appropriation bill that restores the massive cuts in college tuition assistance imposed on this Congress and expand the size and availability of Pell Grants.

PROVIDING FOR CONSIDERATION OF H.R. 6166, MILITARY COMMISSIONS ACT OF 2006

Mr. COLE of Oklahoma. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1042 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1042

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 6166) to amend title 10, United States Code, to authorize trial by military commission for violations of the law of war, and for other purposes. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate, with 80 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on armed services and 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Oklahoma (Mr. COLE) is recognized for 1 hour.

Mr. COLE of Oklahoma. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. COLE of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 days within which to revise and extend their remarks and insert tabular and extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE of Oklahoma. Mr. Speaker, on Tuesday, the Rules Committee met and reported a closed rule for consideration of H.R. 6166, the Military Commissions Act of 2006. The rule provides 2 hours of debate, with 80 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill.

Additionally, it provides that the amendment printed in the Rules Committee report accompanying the resolution shall be considered as adopted, and it provides one motion to recommit with or without instructions.

Mr. Speaker, I rise today in support of the resolution and the underlying bicameral compromise legislation. This critical legislation ensures that we align the procedural protections for captured terrorists with our Constitution. In doing so, we are extending unprecedented legal and procedural protections to enemies who provide no protections to their captives and victims, and who have neither signed nor operate by the Geneva Convention.

To further ensure American Security and to ensure that terrorist detainees

are not released to once again wreak havoc, it is necessary to move this legislation and develop a clear set of standards for military commissions.

Mr. Speaker, make no mistake, time is of the essence in moving forward with this legislation. These commissions will provide an important tool for our servicemen and women in obtaining operationally sensitive information from terrorists captured on the battlefield. However, the reform of the tribunal system to ensure certain procedural rights for these terrorists will also provide an impetus and an opportunity for those currently in our detainee system to cooperate more fully.

Mr. Speaker, as I know you are aware, the underlying legislation was developed after intense negotiations between both the legislative and executive branches of government. Furthermore, its development has been supported by senior Members of both parties and has largely received bipartisan support in both the House and the Senate. Indeed, I predict once the legislation is actually presented, it will be passed by a strong bipartisan majority in this House.

Indeed, when an earlier, stronger and more restrictive version of this same bill moved through the House Armed Services Committee, it passed by a vote of 52-8, with one member voting present. This strong bipartisan majority on the primary committee of expertise and jurisdiction should be taken as a sign of its importance and the support for moving forward with the prosecution of those terrorists who, if set free, would resume killing American civilians and our servicemen and women as a matter of course and a tactic of terror.

Mr. Speaker, today we may well hear several concerns about the way in which the bill was brought forward to the floor. As we all know, when you can't win a debate on the merits of a piece of legislation, process attacks are the best way of slowing down and obstructing progress of that legislation. But the fact remains that within the last 2 weeks, both the House Armed Services Committee and the House Judiciary Committee passed legislation even stronger than the legislation we are voting on today. Since then, bicameral negotiations have resulted in even more modifications to the underlying legislation ensuring even more rights for the terrorists accused of war crimes. But, Mr. Speaker, time is of the essence. We must move this legislation to the President's desk. It does much to enhance America's security and to create an equitable system for prosecuting terrorists captured on the battlefield.

Lastly, Mr. Speaker, before I close, I would like to speak to what protections the underlying legislation provides to those who would like to kill Americans. It provides: The right to counsel, provided by the government at trial throughout the appellate process; an impartial military judge; a pre-

sumption of innocence; a standard of proof beyond a reasonable doubt; the right to be informed of the charges against the accused as soon as practicable; the right to service of charges sufficiently in advance of trial to prepare a defense; the right to reasonable continuances; the right to peremptory challenge against members of the commission and challenges for cause against members of the commission and the military judge; witnesses must testify under oath; judges, counsel, and members of the military commission must take an oath; a right to enter a plea of not guilty; the right to obtain witnesses and other evidence; the right to exculpatory evidence as soon as practicable; the right to be present in court with the exceptions of certain classified evidence involving national security, preservation of safety or preventing disruption of proceedings; the right to a public trial except for national security issues or physical safety issues; the right to have any findings or sentences announced as soon as determined; the right against compulsory self-incrimination; the right against double jeopardy; the defense of a lack of mental responsibility; prohibitions against unlawful command influence toward members of the commission, counsel, or military judges; it requires a two-thirds vote of members for conviction, three-fourths vote required for sentences of life or over 10 years, and unanimous verdict required for the death penalty; it requires a verbatim authenticated record of the trial; cruel or unusual punishments are prohibited; treatment and discipline during the confinement the same as afforded to prisoners in U.S. domestic courts; the right to review the full factual record by the convening authority; and the right to at least two appeals, including a Federal article 3 appellate appeal.

Mr. Speaker, with that said, all these protections that we are willing to provide terrorists are the very same protections that they ignore when beating, mutilating, and killing our civilians and servicemen. These terrorists have no respect for the rule of law. They are not signatories to the Geneva Convention. They do not fight in uniforms, and they kill innocent civilians of all faiths and all nationalities routinely, yet we are willing to grant to them substantive legal protections that I honestly believe go beyond the actual requirements of the Geneva Convention.

With that said, I would urge my colleagues to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding, and I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, the critically important legislation before

us today is being presented as a bipartisan compromise, but nothing could be further from the truth. It was authored by the administration and by the Republican leaders of this Congress.

As Chairman HUNTER testified in the Rules Committee yesterday, no Democrats were involved in any way in the negotiations that were conducted over the weekend to produce this bill, nor did the Rules Committee make in order any of the 15 amendments that Democrats offered to address the sections of the bill that most offend our democratic values and violate our most fundamental traditions.

The closed rule governing this bill means this Republican Congress is turning its back on a real debate here today. It is a reality made all the more egregious by the historic importance of this moment. We are at a crossroads today, and I fear we will not be judged kindly by future Americans for what my Republican friends want to do to us today.

□ 1130

The bill sends a clear message to both our friends and our enemies about what kind of people we are. It shows them whether or not we are really willing to practice what we preach about freedom and democracy and human dignity.

It is moments like this one when we reveal our true colors and even our true values. Sadly, Mr. Speaker, those watching today will conclude that when the going gets tough, America's leaders are willing to abandon our values, abandon them in favor of thuggish tactics that they hope might make them safer for a little while.

In his second inaugural address, our President used noble words to describe America's role in the world and its duty as a beacon of hope for all nations. He said, "From the day of our founding, we have proclaimed that every man and woman on this Earth has rights, and dignity, and matchless values."

That might be disputed by the generations of persons held in slavery and by the women of America who had no say in anything or standing anywhere, but, nonetheless, it sounds good. They are inspirational words.

But here is the reality: For years, this administration has circumvented our Constitution in the name of security. Its officials have dismissed even the most important of our legal documents, such as the Geneva Convention, as being nothing more than "quaint." It was described that way by the present Attorney General, the chief law officer, I might add.

This administration and Republican Congress have allowed detainees to sit in prison for years without charging them with any crime. They are willing to deprive people of even the most basic due process rights that our country has always afforded those held by the government. They are willing to convict people of crimes without giving

them any opportunity to review the evidence the government is using against them. They are willing to try to convict people based on unreliable evidence acquired through cruel, inhumane and degrading treatment that the rest of the world recognizes as torture.

They are willing to allow government officials to degrade and torment other human beings in ways that civilized nations outlawed 60 years ago. They are even willing to take any new legislation that we pass today and make it retroactive to protect people who have already committed torture, so that past abuses will be forgotten instead of being sincerely addressed.

What this Congress is showing the world today is that they are willing to trade our national birthright for a false and temporary sense of security.

Let me emphasize that, because it is indeed a false sense of security, Mr. Speaker. After 5 years of secret detentions, torture, warrantless surveillance, hyped up stories about weapons of mass destruction, are we any safer today from the threat of terrorism? The answer is no, we are not. In fact, as we learned earlier this week, our country's intelligence agencies informed the President a few months ago that we are actually less safe than we were in 2001.

Mistreating our prisoners and depriving them of the basic due process rights of our legal system is not making us any safer. All it is doing is slowly wearing away at the fabric of our democratic society, undermining the essential nature that made us different from other countries. When we degrade and mistreat our prisoners, we degrade ourselves and the democratic values we have inherited from generations of brave and decent Americans.

We are ceding the moral high ground those who founded this country, and the men and women who served it ever since, won with their blood, sweat and tears.

What is more, legislation like this puts our soldiers at risk. During the course of the national debate on this issue, a number of prominent admirals, generals and other military leaders have spoken out against this bill. They have told us time and time again that ignoring our American values puts our U.S. military personnel deployed overseas in danger. That falls on deaf ears here. They have said that respect for the rules of military engagement and prisoner treatment are more than just important parts of our American heritage. They also protect Americans who are captured and imprisoned by foreign powers.

Mr. Speaker, how is endangering our troops making us any safer? How is undermining our moral standard helping us win allies in the war of ideas that we face?

The answer is simple. It is not. At this very moment, there are hundreds, if not thousands of people held in facilities whose fate will depend on this

legislation. I want to take a moment to talk about one of them.

Bilal Hussein is an Iraqi who worked as a photographer for the Associated Press. He is also a Pulitzer Prize winner. He has been held in Iraq by American forces for 5 months. He was accused of aiding and abetting the insurgency, but he has yet to be charged with any crime. He has been given no access to a lawyer or to a court and has not been able to see any evidence against him. The Associated Press has stood by him and repeatedly defended his innocence. We want to make sure he is alive. We will be writing the Secretary of Defense today to give us some information on his case.

But under this bill, Mr. Speaker, Bilal Hussein could be declared to be an enemy combatant, sent to an American detention facility and kept there indefinitely. No charges would ever have to be brought against him. His permanent detention would never have to be defended in a court of law.

Imagine if another nation held an American citizen without charging him of a crime. Imagine if it refused to even let him see the evidence against him. What would we say about such a country?

So, I ask my friends on the other side of the aisle, what are we supposed to say about our country today? Again, in his inaugural address of 2 years ago, the President had this say about the soul of America: "When the Declaration of Independence was first read in public and the Liberty Bell was sounded in celebration, a witness said it rang as if it meant something. In our time, it means something still."

This bill gives the lie to that speech and it gives the lie to what should be our Nation's greatest asset, our greatest weapon in the fight against terrorism and oppression, and that is our values.

I ask everyone in the House to reject this bill. I ask everyone here to chart a new course for America. If we reject torture, if we stand up for a legal system and fundamental rights that are the basis for liberty and the only real source of security that we have, then we will have come a long way in our battle against the threats our Nation faces in the world today.

My friends and colleagues, please don't turn your back on the past. It is in its lessons and principles that we will find the key to a safer and more just future.

Mr. Speaker, I reserve the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, I just quickly want to note, I am very proud of my country. I am proud that we extend protections to our adversaries that they do not extend to us. I am proud that in the few cases where there are transgressions, those are vigorously prosecuted and exposed by this country. So I have great pride in the United States of America.

Mr. Speaker, I am pleased to yield such time as he may consume to the

gentleman from California (Mr. DREIER), the distinguished chairman of the Rules Committee.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I want to begin by thanking my friend from Oklahoma and associating myself with his remarks.

This is a very, very important debate that we are having. I believe that yesterday's news conference that President Bush and the very brave and courageous President of Afghanistan, Hamid Karzai, held yesterday at the White House, underscores how important that debate that we are going to be facing today is.

We were reminded in the remarks that President Karzai offered in response to a question posed to him about how we are handling this issue with the following statement. I am going to read this from the transcript of the news conference, Mr. Speaker.

President Karzai said: "These extremist forces were killing people in Afghanistan and around for years, closing schools, burning mosques, killing children, uprooting vineyards, with vine trees, grapes hanging on them, forcing populations to poverty and misery."

Mr. Speaker, he went on to say, "They came to America on September 11th, but they were attacking you before September 11th in other parts of the world. We are a witness in Afghanistan to what they are and how they can hurt. You are a witness in New York. Do you forget people jumping off the 80th floor or the 70th floor when the planes hit them? Can you imagine what it will be for a man or a woman to jump off that high? Who did that? And where are they now? And how do we fight them? How do we get rid of them, other than going after them? Should we wait for them to come and kill us again? That is why we need more action around the world, in Afghanistan and elsewhere, to get them defeated, extremism, their allies, terrorists and the like."

Mr. Speaker, those were the words of President Hamid Karzai standing in the White House yesterday. He said we have absolute responsibility to make sure that we go after them and we must bring them to justice.

Now we are faced with a challenging situation here. We have a court decision with which we have to contend. When the Hamdan decision was handed down, I ask my friends on the other side of the aisle, did they offer their plan for interrogation or tribunals? Absolutely not. Nothing was offered whatsoever.

When we as Republicans were in the midst of an open and honest debate over the past several days, a bicameral debate, as we were reminded by Mr. COLE, about detainee treatment, did the Democrats offer their own plan? Did they come forward with a plan for interrogation and tribunals? No, they didn't.

When we met just last night at the Rules Committee, did the Democrats offer their own plan for interrogation and tribunals? Absolutely not.

And now, when faced with a critical vote for the safety of the American people, the Democrats are picking at procedure. They talk about closed rules, sunset provisions. They ask what is the urgency? Anything to distract from the fact that there is nothing behind their curtain.

Mr. Speaker, over the last hour, we have listened to our Democratic colleagues stand here and talk about the fact that we need to do everything that we possibly can to have an up-or-down vote on a wide range of issues. An up-or-down vote. Well, that is exactly what we are going to do right here.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I am happy to yield to my friend from Missouri.

Mr. SKELTON. I hasten to correct you. The Democrats did have a proposal in the Armed Services Committee, as you well know. Please give us credit for offering that.

Mr. DREIER. Reclaiming my time, I am going to get to that. I am going to get to that right now. Let me just first say that the urgency of this measure really needs no explanation. We have the alleged mastermind of 9/11 in our custody waiting to be brought to justice, and Members on the other side of the aisle ask, what is the rush? We have intelligence operatives hesitant to interrogate high value targets because their parameters are unclear, and Members on the other side of the aisle ask, what is the rush?

We need every single tool. As President Karzai underscored in his statement, we need every single tool to stay ahead of the people who want to kill us, and our friends on the other side of the aisle say, what is the rush?

Let me point out that during the Judiciary Committee markup, the Democrats offered no substitute at all. In response to my friend from Missouri (Mr. SKELTON), it is true that my friends, including Mr. SKELTON, in the Armed Services Committee, offered a substitute. What was that substitute? It was the McCain language. That was the Democratic alternative that was offered, the package submitted by our colleague, Senator MCCAIN.

The problem is that the bill before us represents an agreement between us, the administration and the very same Senators who propounded what was offered as the Democratic substitute in the Armed Services Committee.

We have heard a lot about Mr. SKELTON's amendment. As I understand it, this amendment would be somewhat redundant. The bill calls for expedited judicial review of H.R. 6166. We are here working on this legislation because the courts told us to do exactly what we are doing. The judicial branch directed Congress to establish procedures for military commissions. We have done that with this bill. Now the minority

party wants to hand this issue back to the courts.

The bill before us, Mr. Speaker, represents a very delicate compromise that allows us to continue to vigorously prosecute the war on terror while at the same time upholding our international and moral obligations to humane treatment of prisoners.

I also want to make very clear that under this rule, the minority will still have an opportunity to offer a substitute or any other germane amendment by way of the motion to recommit. They will have an hour of debate time during the 2 hours that we have granted in this rule to offer an explanation of what their approach is.

But, Mr. Speaker, I believe that at the end of the day, we will see a strong bipartisan vote. Democrats have already spoken in support of this compromise that we are bringing forward today, and I believe that when it comes to the rollcall, we will have Republicans and Democrats voting to help us address the very, very pressing issue as was put forth so eloquently by Afghanistan's President Hamid Karzai.

□ 1145

Ms. SLAUGHTER. Mr. Speaker, I want to remind the Chair of the Rules Committee that Democrats brought 15 amendments up last night, including amendments by the ranking members of Armed Services and Intelligence, that were not allowed.

Mr. DREIER. Mr. Speaker, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. And let me just say that, again, as I mentioned, this is a very delicate compromise that we have been able to fashion and put together here, which enjoys bipartisan support. And while there were a wide range of amendments that were submitted, there was no firm alternative provided to our package that was a solution.

Ms. SLAUGHTER. I reclaim my time.

You negotiated with yourselves. We were completely shut out.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. The able Chair, who is so articulate and capable, also is the master of immediate revisionist history. As he cites the whole set of events that have brought us here, he ignores the fact that over the weekend all of the negotiations were with the administration and with the Republican majority.

Go to the record from yesterday's Rules hearing, and you will find that DUNCAN HUNTER, the Chair of the Armed Services Committee, said no Democrat was involved in those negotiations.

So how disingenuous can you be?

Mr. DREIER. Will the gentleman yield? That is exactly what I said in my remarks.

MR. HASTINGS of Florida. How disingenuous can you be by suggesting,

among other things, that we have offered no plan when we can't even get to the table to offer a plan? We were shut out.

And you, Mr. Chairman, have been the master of closed rules. No lesser person than you when I came to this body argued vehemently against closed rules.

We are about the business here of undertaking serious business without the will of the House being hampered.

Mr. DREIER. Will the gentleman yield?

Mr. HASTINGS of Florida. Mr. Chairman, I don't have sufficient time. If your body will give us time, then I will be happy to yield to you.

Mr. COLE of Oklahoma. I yield 30 seconds to the gentleman.

Mr. HASTINGS of Florida. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. And let me just say that I believe that if you look at the remarks that I made, I talked about those negotiators. I never said that there were Democrats involved in those actual negotiations.

What I was saying is that we have a delicate compromise that was fashioned here that enjoys the support of many Democrats who have come forward and spoken in support of what it is that we are trying to do to make sure that we can successfully win this war on terror.

And I believe that we made it very clear in the record here, and I think that there was no substantive alternative that did come forward from the Members of the minority at all.

Mr. HASTINGS of Florida. No one really disputes whether or not this legislation is needed. In fact, all of us are acutely aware that it is imperative that we establish the legal parameters needed to properly apprehend and prosecute villains who act against this country. Those whom we deem a threat to our country should be given at least an opportunity to be put on trial properly, and if found guilty of their crimes, should be promptly put in prison or executed.

But our responsibility, that we are not discharging fairly, is to make law that is constitutional and consistent with our international obligations.

Mr. Speaker, I am not going to support today's legislation in its current form. We cannot overturn hundreds of years of judicial precedent specifically referring to habeas corpus for the sake of political expediency.

Our judicial system has guaranteed the right to be heard in court, the right to know the evidence presented against you—when Mr. COLE was giving his litany of the rights that are being offered these terrible people, he left out that particular aspect—and an opportunity to contest your charge in a meaningful way. The government should not deny the minimum legal process to certain individuals now and risk the loss of freedom for all people in the future.

Additionally, as the Supreme Court has ruled—and I predicted before, you

are going to get a chance to rule on the constitutionality of this measure, and it should have been expedited pursuant to the plan offered by Mr. SKELTON that was ignored in the Rules Committee—the United States is required under the Supreme Court to uphold the standards codified in the Geneva Convention.

The current treatment of prisoners in Guantanamo Bay is questionable. Someone argued just a moment ago, what was the rush? We have this person who committed 9/11. And that is true. But everybody in the Intelligence Community has said all 14 of the prisoners that were transferred to Guantanamo, their intelligence has been exhausted and their value for intelligence has been exhausted.

We also run the risk of approving prior transgressions. I shan't spend much time on that.

This war on terror has reached global proportions and the world is watching our conduct closely. In the words of the distinguished late Senator William Fulbright, "If America has a service to perform in the world, and I believe she has, it is in large part the service of her own example."

I close, Mr. Speaker: Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety. Ask Ben Franklin. That is what he said.

Mr. COLE of Oklahoma. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, we are a nation at war. We are at war with terrorists who hide in the shadows and prey on the innocent because they want to strike fear in the hearts of Americans, because they hate our freedom. And there should be no doubt that terrorists who perpetrate these acts are the enemy, and we need to treat them like the enemy, and that is why we are here today.

This legislation will give this administration and future administrations the authority to try these terrorists. It also expands the definition of terrorists to those who would provide arms or financing to those who would seek to murder our citizens. It would allow confessions secured through tough interrogations to be used in court, confessions that have stopped many terrorist plots, plots to kill Americans.

And it is astonishing to hear some in this House speaking out against these provisions.

Mr. Speaker, if you contract for murder, you are a murderer, you are guilty of murder. And we need to give our professional interrogators clear direction and clear law, because right now, if you can believe it, they are actually faced with the prospect of buying liability insurance so they don't get sued as war criminals in a Federal court. This is ridiculous.

One of the reasons that we are the strongest fighting force the world has ever seen is that we are an all-volun-

teer military. And I would ask you, are you going to volunteer to serve in a military that may inadvertently make you a lawbreaker just because you are doing your job of protecting America? Are we going to be asking our marines, who are breaking down doors in Fallujah, whether or not they should be reading Miranda rights to insurgents?

I believe the American people are demanding that we stand strong against the terrorists and are demanding that we keep the information we need to keep our Nation safe.

Mr. Speaker, the first and foremost responsibility of the Federal Government is to provide for the national defense, that is in the preamble of our Constitution. And national defense should always be above politics. Yet, the Democratic minority leader of this House has said that national security should not be an issue in the upcoming election. Think about that.

She has said that, that national security should not be an issue in the upcoming elections. And I would think that our brave men and women in the military would beg to differ with that.

It is my hope that we can stand together in a bipartisan fashion to do what is right for America. I urge my colleagues to support this rule and the underlying legislation.

Ms. SLAUGHTER. I yield 4 minutes to the gentlewoman from California (Ms. MATSUI).

(Ms. MATSUI asked and was given permission to revise and extend her remarks.)

Ms. MATSUI. I thank the gentlewoman from New York for yielding me time.

Mr. Speaker, I rise in opposition to this closed rule and the underlying bill. This is a debate about whether we are willing to preserve the fundamental protections our Nation has fought for centuries to maintain.

As written, the underlying bill rejects these essential protections in favor of vague assurances and provisions open to interpretation. The potential erosion of our legal safeguards is a serious matter. That is why several members of our armed services raised these concerns when they testified to Congress several weeks ago.

Mr. Speaker, certain rights are considered so fundamental to our Nation and to our Constitution that they cannot be sacrificed. The right of every American to have his or her day in court is one such right.

But a number of law experts, including Martin Lederman, who worked at the Department of Justice for both President Clinton and President Bush, believe that this legislation would put that right in jeopardy. As written, this legislation could be used by the President as evidence of congressional agreement of a number of his legal assertions. That includes his assertion that holding an American citizen indefinitely without access to a lawyer is legal.

From my family's personal experience, I know something about what can happen to the rights of Americans when the executive branch overreaches in a time of war.

Restricting the legal rights of our citizens is something which, if done at all, must be done carefully and with a proper balancing of concerns. I know that Members of both Chambers tried to meet that standard with the administration on this legislation, but this proposal fails to achieve that balance. For that reason alone, we should reject this bill.

I am also concerned because the history of this legislation fits a pattern we have seen before, one in which officials assert expanded powers while ignoring their career professionals in the process.

A few weeks ago, Congress heard from a long line of generals and judge advocates general. Their collective testimony outlined a swift, tough approach to these tribunals that protected our troops, and it did so while preserving our moral authority in the world. This bill disregards their testimony and their expertise.

They argued forcefully for detainees to see the evidence presented against them, with some adjustment for classified evidence. They stated that evidence obtained through torture should not be permitted, not only because it is morally offensive but also because it is inherently untrustworthy. They clearly reiterated their position that judicial review must be preserved.

And, above all, they argued strenuously that any legislation must affirm the United States' commitment to the Geneva Conventions. They believe this because they know, better than anyone, that these safeguards protect our troops fighting on battlefields around the globe.

Unfortunately, Congress did not listen to these experts in military law. Instead, the bill made in order under this closed rule would permit evidence obtained through torture in some cases.

The legislation does include a list of certain grave breaches of the law. Beyond those, however, it gives the President the authority to determine what is and what isn't torture as long as he publishes it in the Federal Register first.

These provisions undermine our Nation's moral authority, and, once given away, it will be that much harder to earn back.

In closing, Mr. Speaker, the underlying bill is vague when it should be specific; it is casual with regards to important legal protections when it should be vigilant; and it is a fundamentally flawed approach to prosecuting terrorists.

I urge all Members to reject this rule and to vote against the underlying bill.

Mr. COLE of Oklahoma. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California, my good friend, Mr. LUNGREN.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise in support of the rule. Listening to the debate, it is very interesting. The gentlewoman from New York's description of our treatment of captured alleged terrorists was astonishing. As a matter of fact, after listening to her litany of complaints, President Chavez's comments at the United Nations appear mild.

We have not violated the rights of individuals. This bill creates a fair and orderly process to detain and prosecute al Qaeda members and others captured during the war on terror. We extend more rights to these individuals than our POWs would ever expect under the Geneva Accords.

And the suggestion raised by another Member on the other side, that somehow we are violating hundreds of years of precedent, is absolutely wrong. We are not talking about the great writ that is found in the Constitution, the great writ of habeas corpus. We are talking about a statutory writ, which the Supreme Court has said time and time again Congress has the right to create, Congress has the right to constrict, Congress has the right to eliminate.

We do not just leave these people devoid of an opportunity for appeal. Rather, we set up a mechanism where an appeal can go to a single court, the District Court of Appeals for the District of Columbia, so that we can avoid the violations of justice that take place by the abuse of habeas corpus by some already involved.

Besides, we already made this decision in this Congress a year ago. What this does is say to the Supreme Court, we meant what we said when we passed the law a year ago which said this should apply to people already in Guantanamo.

That was our intent. Unfortunately, the Supreme Court believed it not to be found in the language. This makes it clear that what we said a year ago we say again, only we say to the Supreme Court, "This time we really mean it. Please follow it."

It is not a violation of any rights. It extends more rights to these people than they are allowed under any other regime of law in the world, and any nonsense spoken on this floor to suggest otherwise ought to be rejected in whole and in part. We ought to support this rule and support this bill.

□ 1200

Ms. SLAUGHTER. Mr. Speaker, I think it is a proven fact that people have been imprisoned for several years without any due process.

I am pleased to yield 3 minutes to the gentleman from Missouri (Mr. SKELTON) who did not have an opportunity to have his amendment made in order.

(Mr. SKELTON asked and was given permission to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, if you want to be tough on terrorists, pass a

statute that will meet the scrutiny of the Supreme Court of our country. If you want to be tough on terrorists, let's not pass something that rushes to judgment and has legal loopholes that will reverse a conviction. Once a conviction occurs, you want it to stick.

Mr. Speaker, I had the privilege of practicing law a good number of years as a small town country lawyer, and part of that I was prosecuting attorney for Lafayette County, and I know what it is to obtain a hard-fought conviction of a criminal. And the specter that hangs over every prosecuting attorney on every case that is tried is a specter of that case being reversed on appeal.

There are two manners by which a case may be reversed. One is, of course, something went wrong in the evidence or the instructions, something occurred during the trial, maybe even a comment by one of the counsel. The other is a constitutional question regarding the statute on which the defendant was convicted. That's what we deal with here.

I am concerned that portions of the statute that you are attempting to pass will give an appellate court the opportunity to reverse the case and send it back. That bothers me.

I had an amendment that would give an expedited procedure. It was not allowed. Mrs. TAUSCHER of California had an amendment regarding common article 3 of the Geneva Convention. Ms. HARMAN had one regarding interrogation techniques. Ms. SANCHEZ had one regarding appeals process. And Mr. MEEHAN had one regarding habeas corpus, and they were all turned down.

I have in my possession a letter from the chief counsel to the commissions, Colonel Dwight H. Sullivan. And in this letter he points out just what I am talking about. We should have an expedited procedure, which my amendment would have given, so if there are flaws, and I think there are flaws in this statute, and he does, too, as I will point out, you should have it corrected and give this Congress an opportunity to correct it as quickly as possible.

DEPARTMENT OF DEFENSE,
OFFICE OF THE CHIEF DEFENSE COUNSEL,
Washington, DC, September 26, 2006.
Re Military Commission Act of 2006

Hon. DUNCAN HUNTER,
Hon. IKE SKELTON,
House of Representatives,
Washington, DC.

DEAR CHAIRMAN HUNTER AND RANKING MEMBER SKELTON: I am writing to express my views on the desirability of requiring that the Federal courts provide expedited review of any new military commission system. I am the Chief Defense Counsel for the Office of Military Commissions and I am writing in that capacity. I do not purport to speak for the Administration, the Department of Defense, or any other entity.

In December 2005, Congress adopted legislation to preclude habeas corpus relief for Guantanamo detainees. Of course, in *Hamdan v. Rumsfeld*, the Supreme Court interpreted that legislation as applying only to future habeas petitions and not to habeas cases that had already been filed. If the Supreme Court had ruled the other way—an

outcome that the current version of the Military Commission Act of 2006 would achieve—the results would have been disastrous.

In Hamdan, the Supreme Court declared that the old military commission system was “illegal.” Having been intimately familiar with the actual practice in the old military commission system, I agree with the Supreme Court that the old system would not have produced trials that were fair or that appeared to be fair. If the Detainee Treatment Act of 2005 had been interpreted as applying retroactively, then I would be in Guantanamo Bay today for a military commission trial. The decision by the Supreme Court declaring the system illegal wouldn’t have come for years. The result then would be to wipe out many convictions obtained at a cost of tens of millions of dollars. Thank goodness the Supreme Court reviewed the military commission system when it did.

Many aspects of the Military Commission Act of 2006 will be the subject of constitutional challenge. And whatever bill Congress passes will be the subject of judicial scrutiny. As Justice Kennedy noted in his crucial Hamdan concurrence, “Because Congress has prescribed these limits, Congress can change them, requiring a new analysis consistent with the Constitution and other governing laws.” *Hamdan v. Rumsfeld*, 126 S. Ct. 2749, 2808 (2006) (Kennedy, J., concurring) (emphasis added).

Consider, for example, the bill’s approach to hearsay evidence conflicts with the most basic Anglo-American concept of the right to confront one’s accuser. The bill appears to set up a system in which an individual can be convicted—and possibly sentenced to death—on the basis of mere written statements. It would allow an individual to be sentenced to death without ever having the opportunity to look his accuser in the eye and subject him to cross-examination. As Justice Scalia has written for the Supreme Court, our Founding Fathers adopted the Confrontation Clause in response to arguments that “[n]othing can be more essential than the cross examining [of] witnesses, and generally before the triers of the facts in question. . . . [W]ritten evidence . . . [is] almost useless; it must be frequently taken ex parte, and but very seldom leads to the proper discovery of truth.” *Crawford v. Washington*, 541 U.S. 36, 49 (2004) (quoting Richard Henry Lee, Letter IV by the Federal Farmer (Oct. 15, 1787), reprinted in 1 Bernard Schwartz, *The Bill of Rights: A Documentary History* 469, 473 (1971)). The military commission system established under this legislation is vulnerable to constitutional challenge along these lines, and many others. It is in everyone’s interest to know sooner, rather than later, whether the new system is unconstitutional. If not, it is in everyone’s interest to fix the legislation sooner rather than later.

Instead of seeking to delay judicial assessment of the military commission system, Congress should expedite it. The Military Commissions Act should provide for a three-judge district court to immediately hear a challenge to the constitutionality of the new system. In the Bipartisan Campaign Reform Act of 2002, Pub. L. 107-155, 116 Stat. 81, Congress anticipated a constitutional challenge and set up a system to quickly resolve such a challenge. That approach succeeded spectacularly. See *McConnell v. FEC*, 540 U.S. 93 (2003). If the new military commission system is constitutionally permissible, allow it to proceed with the judiciary’s imprimatur. If, as I believe, it is constitutionally deficient, then allow the judiciary to quickly identify its faults so that they can be corrected.

But regardless of whether you agree with such an expedited approach, attempting to prevent the courts from analyzing the new

military commission system for years is the worst approach of all. I urge you to reject the portions of the Military Commission Act of 2006 that would deprive the federal courts of any ability to review the military commission system until after it has produced a final conviction.

I would be happy to provide any additional information. The best way to contact me is by e-mail at sullivan@dodgc.osd.mil.

Very Respectfully,

DWIGHT H. SULLIVAN,
Colonel, USMCR.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. HUNTER), chairman of the Armed Services Committee.

Mr. HUNTER. I thank the gentleman for yielding.

My colleagues, let’s get this straight, the Supreme Court did not say that Congress did not have the right to prescribe this new structure under which we are going to prosecute terrorists. They said we had the obligation. They said that the President couldn’t do this himself, that it had to be participated in by Congress and we should put together these rules and regulations.

We have put together a structure that will allow us to prosecute terrorists efficiently and effectively, and at the same time, understand the exigencies of the battlefield.

If you use the UCMJ, which I know a lot of folks on the other side want to do, under the testimony of our experts, and that means JAG officers who have tried hundreds of cases, you would have to give Miranda warnings to an insurgent who shot at you outside of Kabul, Afghanistan, at the moment you captured him and threw him over the hood of your Humvee. You can’t do that. You can’t follow the UCMJ in that respect.

We have given a boatload of rights. We have given the right to counsel, the right to an impartial judge, presumption of innocence, standard of proof beyond a reasonable doubt, right to be informed of the charges as soon as practicable, right to service of charges sufficiently in advance of trial, right to reasonable continuances. This list goes on and on. So Khalid Sheikh Mohammed, who was alleged to have designed the attack on 9/11 that killed thousands of Americans, will have a greater body of rights, as Mr. LUNGREN has said, in his trial than anybody under a similar tribunal system has ever had.

Ms. SLAUGHTER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, let me be very clear: I believe that there is a special place in hell reserved for the planners and perpetrators of 9/11. But 5 years after 9/11, we have yet to hold and try one single terrorist accountable. And sadly, today we have before us a bill that, if passed in its current form, will do nothing but put us in further legal limbo, further delaying punishment for these terrorists.

We need clear legislation and swift, tough and fair justice to be sure that we don’t observe another 9/11 anniversary without these terrorists punished.

How do we go about that? Well, I can tell you that we don’t do it by passing this bill. We need a bill that is not going to be turned over by the Supreme Court, a bill that is clear about our commitment in the United States to common article 3 and to the kind of rule of law and the law of war that will be sure that these perpetrators of 9/11 and others meet justice and do it quickly.

Right now, we have before us a bill that the Republicans pretty much negotiated among themselves that allows the President to redefine torture when and how he sees fit, and will put our armed services at risk for abuse if they are ever captured while doing little to obtain the intelligence we need from captured terrorists.

That is why so many retired generals, JAG officers and senior military experts oppose the President’s plan and say very clearly that we must not go down this road that will put our troops in danger.

The former chairman of the Joint Chiefs, General Shalikashvili, and over 40 former military officers and Pentagon officials, wrote recently that the Geneva Conventions are currently the only source of legal protection for many of our troops deployed in harm’s way throughout the world.

That is why my amendment that was not approved by the Rules Committee is an important opportunity to get this right. We do have to do this now. It is important to do it now. But we cannot rush to judgment and get it wrong again.

Keep in mind the President’s original plan has not given us the ability to prosecute anyone because they got it wrong. And because they blew it, and are about to blow it again, we are still not going to be able to bring the 9/11 perpetrators to justice, which is what we want to do.

Ladies and gentlemen, please support a “no” vote on the previous question so we can amend this bill, do the right thing, and get a bill that we can bring to the President to sign soon.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. GINGREY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, let me make a point about an error that was just made in the statement of my good friend, the gentlewoman from California.

The President cannot redefine torture. The grave offenses are prohibited and defined as war crimes. You cannot do them, and torture is defined as one of the grave offenses. The President cannot redefine torture. All the President can do is do administrative regulations with respect to offenses that are not grave offenses, and that includes torture. The President cannot redefine torture.

Mr. GINGREY. Mr. Speaker, I rise today in full support of the rule for H.R. 6166.

I hear from a number of my colleagues on the other side of the aisle, and particularly heard in our hearing yesterday in the Rules Committee, a complaint about process.

I understand that, Mr. Speaker. That is what the minority party does. That is what we would do if we were in that situation. That is what we have done in the past. I understand those complaints about process.

But this is now where the rubber meets the road. This is about policy. This is a bill that we need their full support on. The men and women that work in our intelligence community, the CIA agents, the interrogators, the military personnel, they need our support. We shouldn't be giving more rights to the terrorists than we do to our own people who are fighting every day to protect us.

Mr. Speaker, I want to remind my colleagues that these detainees, whether they are in prison in eastern Europe or at Guantanamo Bay, they are not there because they were caught chewing bubble gum in class, or throwing spitballs. These are very, very bad guys that were caught on the battlefield in Afghanistan with weapons in hand. Or in some instances, preparing improvised explosive devices to blow our young men and women to smithereens. So I don't think they deserve any special rights. They deserve the right to counsel and a fair trial, and that is what we are giving them. These people are out of uniform. They are not fighting for any particular government. They are targeting civilians. They are beheading the prisoners, including Daniel Pearl, Nick Berg, and from my own district, Mr. Speaker, a government contract worker, a husband and a father, Jack Helmsley.

They don't qualify for rights under the Geneva Convention, even though the President has tried to extend them those rights. The Supreme Court, of course, in their recent ruling, says we have to do that, so that is what we are doing. We are giving them rights. We are being a whole lot kinder to them than they ever would be to us because of our moral standards. I think that is important.

I think this is a bill that gets it right and it deserves the support of Members on both sides of the aisle. I hope my colleagues, when the rubber meets the road, when we get to the vote, they will think about policy and not process.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Speaker, as I always remind my colleagues, I am a mother of five children and I have five grandchildren going on six in October. Their personal safety is of paramount importance to me, as it is to every parent of their children and grandchildren in our country.

As elected officials, our primary responsibility is to protect and defend our country, to provide for the common defense. It is in the Constitution of the United States.

So to come to this floor on this very important debate and to hear the Representative from Georgia, to imply that this issue of punishing those who do harm or could do harm to our country is not a priority for every Member of this body is a disservice to this debate and dishonors our Constitution.

How dare you come to this floor and imply that we think that these people are being tried for chewing gum. They have committed the most heinous acts that we have witnessed in our lives. Every American wants them prosecuted and punished. Every American wants them prosecuted and punished.

I will not yield. You had your time. You demeaned this debate by implying that we think they were being tried for chewing gum. That is what you said. The RECORD will show it.

But it isn't just you. It isn't just you. It is the condescension and the disrespect for something that we should expect every Member of this body on both sides of the aisle to take very, very seriously: To provide for the common defense.

□ 1215

We have that officially as our responsibility. It is our first responsibility because, unless our people are safe, nothing else really matters. And as a mother, as a parent, as a mother of five and a grandmother of five going on six, as I constantly remind you all, I identify with the concerns of all of America's families for safety in their neighborhoods while these Republicans are cutting the Community Policing program, Cops on the Beat program. So it just is very pervasive.

But, again, we all want a safe home, a safe community, a safe neighborhood, homeland security, and to be able to protect our country wherever our interests are threatened in the world. And the ability to anticipate what those dangers may be is a very important one as well.

It is 5 years since 9/11. Not one person who has been directly responsible for 9/11 has been prosecuted and punished. There is something wrong with this picture. And this bill that is here today, because it does violence to the Constitution of the United States, also, as Mr. SKELTON said, will produce convictions that may well be overturned because the bill does not heed the instructions from the Supreme Court, a Supreme Court friendly to this administration, which has directed it to go back to the drawing board.

Democrats bring to this debate an unshakeable commitment, as do Republicans, to the proposition that terrorists who attack Americans must be caught, convicted, and punished in a judicial process that will withstand the scrutiny of the Supreme Court. We want them in jail. We want them pun-

ished, whatever that punishment is. We don't want it overturned. And that is what this debate is about today.

The American people want those who perpetrated and are responsible for 9/11 to be prosecuted without further delay. It is 5 years later, and they want convictions to stick so that justice will not be further postponed. It is inexplicable. How do you explain to people that 5 years later this has not happened, and not one single planner has even been brought to trial?

The bill does not help us achieve the goal of bringing anyone to trial. It is badly flawed. It threatens the safety of our troops, our ability to prosecute terrorists effectively, our ability to protect the American people, and to honor our oath of office to protect and defend the Constitution. Rather than welcoming suggestions for improvements, Republicans refuse to hear them at all.

The only one recourse that we have is to defeat this rule so that we can offer amendments to address some of the bill's most glaring deficiencies in the areas of, one, habeas corpus; two, Geneva Conventions standards; and the appeals process. If we do not, I believe, as I have said, that we will be headed for a repeat of Hamdan v. Rumsfeld, a Supreme Court defeat for the President and a decision that sends us back to square one in terms of bringing those responsible for 9/11 to trial.

By seeking to strip Federal courts of habeas corpus review, this bill is practically begging to be overturned by the courts. Habeas corpus is one of the hallmarks of our legal system and our democracy. It is the last line of defense against arbitrary executive power. And on that subject, we had a rule that was proposed by Mr. MEEHAN. It was rejected by the Rules Committee. Hopefully, we can reject the previous question so that we can bring that up.

Then, permitting indefinite detention under conditions that cannot be challenged in court is so contrary to our history and our values that it should raise all sorts of red flags. Yet this bill rushes us headlong into a court-stripping misadventure that will have disastrous consequences for our efforts to combat terrorism. Let us not go there. That is habeas corpus.

In addition, the bill establishes an appeals process, and it is interesting, Mr. Speaker. The appeals process in this bill ignores the existing highly respected appellate military system that provides a direct route to the Supreme Court, expedited. Rather than deferring to the military justice system that is very respected by the military and that is now in place, the bill creates a new appeals court with no track record and a longer, longer path to the Supreme Court review, which will delay justice.

Perhaps most distressing, this bill could very well boomerang on us, putting American troops in danger.

Redefining the Geneva Conventions in ways that lower the treatment standards the Conventions create poses a real risk to American forces.

This is a time when the Golden Rule really should be in effect. Do not do unto others what you would not have them do unto your troops, your CIA agents, your people in the field.

And God bless our military personnel, our men and women in uniform, our intelligence officers who are out there for their patriotic service to our country. They are best protected by an international commitment to the highest possible standards for the treatment of prisoners. Why would we want to do something that at the same time jeopardizes the safety of our troops and weakens the moral basis for our efforts against terrorists? And experts have testified over and over again that that kind of treatment does not produce intelligence that is of value and reliability that we need to protect the American people and to bring these terrorists to justice.

Democrats have proposed amendments on these issues, habeas corpus, Geneva Conventions, the appeals process, but the rule, as drafted, will not let us consider them. This House once again is shutting us down on debate. As yesterday, this House said "no" to the resolution that said we want all Members of Congress to see the National Intelligence Estimate so that we can stipulate, all of us together, to a set of facts of how the war in Iraq is having a negative impact on the war on terror. Yesterday they said "no." Today the Republicans said "no." It is just a constant chant.

These subjects are just too important to allow those results to stand. If we defeat the previous question, the opposition to which is being led by Congresswoman SLAUGHTER—and I thank you, Congresswoman SLAUGHTER, for your leadership on this important issue on the Rules Committee. Under your leadership, if we win, we can thoroughly debate all of the matters raised by this legislation.

Let us do the job that we were elected to do on this, one of the pivotal issues of our time. Let us honor our oath of office to protect and defend the Constitution and our responsibility to protect the American people and to prosecute and punish those who would do harm to them.

Mr. COLE of Oklahoma. Mr. Speaker, I just want to say quickly for the record I think we are operating by the Golden Rule. I wish our opponents were. I wish they extended to American soldiers the same rights that they are given under this legislation.

With that, Mr. Speaker, I would like to yield 2 minutes to the distinguished gentleman from Florida, my fellow Rules Committee member, Mr. LINCOLN DIAZ-BALART.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today in support of this important legislation.

Is it perfect? No. Do we have an obligation to pass it? Yes. It is very important that this Congress passes it as soon as possible.

First of all, the most important thing that this legislation does, that it

accomplishes, is that it protects our troops and intelligence officers. Sources and methods of intelligence gathering are protected. The security of this country, the American people, thus and for many other reasons, the security of this country is protected and is enhanced by this legislation. And that is the most important ingredient, I believe, in this legislation.

Secondly, it conforms with the rule of law, including international law, specifically common article 3 of the Geneva Conventions. Ad hoc courts are not acceptable. And what is necessary is established by this legislation, regularly constituted courts established by law, with judgments appealable to the Federal appellate court in the District of Columbia. The rule of law is satisfied by this legislation.

It is a very delicately balanced legislation, that while satisfying our obligations under the Geneva Conventions, at the same time it protects the methods and sources of gathering intelligence and our intelligence officers and the troops in the field.

This is very important legislation. It is important that the Congress pass it as soon as possible. I strongly support it and urge its passage.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I rise in opposition to this closed rule and to the underlying bill. We are rushing through a bill under a closed rule without the right to debate amendments.

This is a bill which will have tremendous ramifications for our Nation, our judiciary, and our military, and we are given a closed rule. This process is an absolute outrage. It demeans our democracy. I regret that we must even consider such legislation, but we must because the Bush administration has broken and abused the honor, integrity, and standing of the United States.

For the past 5 years, the Bush administration has repeatedly acted in ways that betray America's commitment to the rule of law. Prisoners have been held in secret prisons without any due process or even access by the Red Cross. Others have been held at Guantanamo to avoid judicial oversight and the application of U.S. treaty obligations toward detainees.

The executive branch has operated under a bizarre set of legal theories that have been rejected by dozens of our highest-ranking former military officers and representatives of the Judge Advocates General Corps, all of whom have warned of the dangers such opinions pose to our own uniformed men and women in the field, now and in the future.

Interrogation practices were approved at the highest levels of the Pentagon, which General Counsel of the Navy Alberto Mora described as "clearly abusive and clearly contrary to everything we were ever taught about American values."

According to press reports, the CIA has used a variety of methods that the

United States has previously prosecuted as war crimes and routinely denounced as torture when they were used by other governments.

Mr. Speaker, we would not need to be here if the Bush administration had simply adhered to the letter and spirit of U.S. law and the Geneva Conventions. We would not be here if the Bush administration had called upon our best and most experienced military interrogators, those who undergo rigorous training at Fort Huachuca in Arizona, because violations of U.S. and international law would not have occurred, and we likely would have obtained intelligence of higher quality and value.

We would not be here if the Bush administration had directed all interrogators across all agencies to adhere to the letter of the Army Field Manual and the Geneva Conventions.

Now, I wish I could say President Bush and his advisers have come to grips with how they have undermined and tarnished America's reputation as a nation that stands foursquare in support of the rule of law, justice, and human rights. But this legislation proves that precious little has been learned.

Instead, this bill will prevent any accountability for violations of the law carried out in the past. It will immunize from prosecution anyone who might have committed abuses or crimes. And when we immunize those who carried out abuses, we extend that blessing to those who issued such orders and provided such guidance.

Mr. Speaker, scores of military officers in the field rejected the orders and guidance to use so-called "alternative methods" during interrogation, namely, torture. They knew those orders violated the law. But we are not rewarding those fine officers for sticking with the law. They are not being honored for their professionalism or for the quality of the intelligence they provided.

But those who broke the law will be rewarded along with those who ordered them to break the law. If this bill passes, we will even strip individuals who are detained of their rights and ability to challenge the factual and legal basis of their detention. Why? Because the White House does not believe in the checks and balances of democracy.

□ 1230

They are angry that twice the Supreme Court has pointed out the failures of our detainee policies, practices and procedures.

Mr. Speaker, how can we do this? If some other country were holding American citizens in detention and rewriting their laws in just this way to deal with our people, would we be encouraging such an effort?

Mr. Speaker, let me say quite simply why I oppose this bill. I oppose this bill because I am a proud American, and this bill runs contrary to the very values on which our country was founded

and for which we stand like a beacon to the rest of the world: The rule of law, due process and respect for human rights.

Mr. Speaker, I fear for the soul of this Nation.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, there are some things that need to be addressed. For one thing, putting the judge advocate generals of the service, as great as some of them are, on a pedestal is inappropriate. When I served 4 years in the Judge Advocate General Corps on active duty, we had one TJAG that did not even know what post he was at from time to time. So it must be taken in context.

But when I hear Members here on the floor say, gee, by passing this bill we are putting troops at risk, let me tell you what will put troops at risk, when we start applying criminal law standards that I observed during my years as a judge and chief justice, you start applying those, the forensics in the battleground area, you are putting troops at risk.

When a man and a woman has to fire in self-defense and also be thinking about, gee, can I go get that that has fingerprints, DNA, I better go collect evidence for the trial that will be upcoming, then that puts them at risk. Please do not put our troops at further risk by making them comply with civil standards back here in this country.

You know, people have declared war on us, and to say that those people will deserve constitutional standards, let me tell you, there are judges that have ruled the Constitution means inmates require electric typewriters, televisions, things like that. It is totally inappropriate.

The Constitution itself says, in article I, that: "We shall constitute tribunals." We will do these things. That is what we are doing. It is constitutional. To respond to perhaps the rhetorical question by the minority leader, how dare we? How dare we? How dare I? Because the Constitution says: We will provide for the common defense, not provide for the criminal defense of those at war with us. That is how dare I, that is how dare we.

Ms. SLAUGHTER. Mr. Speaker, I will be asking for a "no" vote on the previous question so that I can amend this closed rule and allow the House to consider three critical amendments that were rejected by the Rules Committee last evening.

Mr. Speaker, I ask unanimous consent to insert the text of the amendments and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, the first amendment offered by Represent-

ative MEEHAN would restore habeas corpus, one of the most basic principles in our legal system which allows a person detained by the Government to have a judge review his or her case.

The next amendment, which was offered by Mrs. TAUSCHER, strikes the provision in the bill that would reinterpret and weaken our commitment to the Geneva Conventions. The last amendment, by Representative LORETTA SANCHEZ, would modify the appeals process by providing that the existing and experienced U.S. Court of Appeals for the Armed Forces, and then the Supreme Court would be used instead of creating a brand new court system that is untested and untried.

Mr. Speaker, the bill we will be considering shortly makes very extraordinary changes to the way we deal with interrogation and treatment of prisoners of war, and those incarcerated from the war on terror.

It is undoubtedly one of the most deadly serious issues we will deal with in this Congress. The impact of this legislation is not just about the effect that it will have on those individuals that our Nation apprehends in wartime and in the War Against Terror.

Every bit as important are the far-reaching implications that it will have for our soldiers and citizens who may be captured. This is about protecting them from torture and other inhumane treatment. The three amendments are critical components in this process. They need to be a part of the process today.

Let's do the right thing and vote "no" on the previous question so that we may consider these issues today. The lives of the brave men and women protecting our great Nation depend on it. Again, I urge a "no" vote.

Mr. Speaker, I yield back the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, today in closing, I want to again draw the attention of Members to the strength of the underlying bicameral compromise legislation, H.R. 6166. We have had a vigorous and good debate on the rule which I believe will help convince the House to support this vital measure.

I honestly believe when Members sit back and consider the underlying legislation carefully, they know we must move forward and pass both the rule and the bill. This is not an issue that we can take lightly, and we must act to enhance and secure America's security by providing the proper legal tools for our forces.

I believe that my colleagues on the other side of the aisle who have spoken against this measure are very sincere and are very honorable in their intentions. But I want to conclude by adding a personal perspective on this particular issue. I had an uncle who served in the United States Navy during the Second World War.

He was captured in the Philippines in 1942, did the Bataan Death March, served throughout the war, first in the

Philippines and then in the mainland of Japan as a prisoner of war.

During that process, he suffered enormous abuse. The first speech I gave on the floor of this House when I was privileged to serve was in support of a resolution that was presented in a bipartisan fashion that we would hold the then-Iraqi government of Saddam Hussein accountable for their treatment of any American POWs that might fall into their hands.

And, frankly, when we had the discussion on the Armed Services Committee about Abu Ghraib, I was probably as tough as anybody certainly on my side of the aisle in pointing out where I thought we had had inconsistencies, shortcomings and failures, and that those needed to be corrected.

But I have also had the opportunity, serving in this body, to go to Guantanamo and to talk to our interrogators and talk to our guards and talk to them about the nature of the enemy with which we deal. I need to remind my good friends, we are not dealing with criminals. We are dealing with terrorists.

We are not dealing with people who have broken our law, we are dealing with people that want to kill our citizens. We are dealing with an enemy that is very unlike any we have confronted before in the history of our country.

These are not uniformed combatants in the service of a foreign country; these terrorists are not uniformed; they are not under the supervision of legitimate governments; they do not recognize the Geneva Convention; they do not extend to the prisoners that they take of all faiths, of all nationalities, any rights, any privileges, any protections whatsoever.

We can be enormously proud as Americans that we have not stooped to that standard, that this legislation has been carefully crafted and negotiated, ensures the rights, ensures protections, sets up standards. And I have no doubt that our courts, our military, our judicial system, our legal system, will hold anybody who violates those rights to very high standards, as indeed we have done in the past.

Mr. Speaker, this is a very good rule and a very good bill. It offers us the opportunity for an up-or-down vote, which, as the chairman of the Rules Committee pointed out earlier, we have heard a great deal about this morning, the need for up and down votes and clarity. We have got that here.

Mr. Speaker, I predict at the end of the day we will have an exceptionally strong bipartisan vote in support of this resolution.

Mr. Speaker, I intend to vote for the rule and the underlying legislation—and I would urge my colleagues to do the same.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H. Res. 1042, a closed rule providing for consideration of H.R. 6166, the Military Commissions Act of 2006. I oppose the rule because it forecloses members

from offering constructive amendments that would improve a bill that otherwise is unlikely to pass constitutional muster.

Mr. Speaker, among other things, H.R. 6166, seeks to correct the deficiencies in the Administration's regime of military commissions identified by the Supreme Court in *Hamdan v. Rumsfeld*, 548 U.S. ___, 05–184 (June 29, 2006).

Although there were more than a dozen amendments offered, the Rules Committee did not see fit to make any of them order. This is very unfortunate because many of these amendments would lessen the likelihood the bill would be found unconstitutional.

For example, I offered a simple and uncontroversial amendment. It simply provided that any costs incurred by the United States to ensure that an unlawful enemy combatant receives a fair trial under the system of military commissions established by the Act by affording him the right to a civilian attorney, interpreter fluent in his native language, and expert witnesses where necessary can and shall be recouped from any assets confiscated or seized from the terrorist organization to which the accused belongs.

I offered this amendment, Mr. Speaker, because the American people are generous and fair-minded. We believe in fundamental fairness and due process. We believe that the accused in a penal proceeding is entitled to the effective assistance of counsel. We believe that the adversary legal system depends upon vigorous advocacy, which in turns requires that the accused feel free to communicate with his counsel candidly and fully, secure in the knowledge that his communications to his counsel are privileged from disclosure. We believe that in a criminal case, the Government must bear the burden of proving guilt beyond a reasonable doubt, and it should be able to do so without resorting to secret evidence or evidence it unlawfully obtained.

But Americans are not foolish. And it would be foolish to expect Americans to pick up the tab to pay for competent counsel and expert witnesses to testify on his behalf when the accused, or his organization, has the means to pay for these services himself. Nothing in the Constitution, our law, traditions, or way of life entitles an accused to these services free of charge. After all, even in a regular criminal case, the Government is obligated to provide the accused an attorney only if he cannot afford one. It would be passing strange indeed if in our desire to afford an unlawful enemy combatant a fair trial, we treated the accused better than we do a common criminal.

My amendment would have ensured that if a member of al Qaeda is tried in a military commission, the costs of his defense would be paid out of the captured or confiscated resources of al Qaeda and its allies, and not out of the pockets of the American people. This common sense amendment was not made in order, as were other sensible and constructive amendments offered by my colleagues.

Mr. Speaker, the treatment and trials of detainees by the United States is too important not to do it right. This closed rule is not the right way to justice by the American people. I therefore cannot support this closed rule and urge my colleagues to vote against the rule. We have time to come up with a better product and we should. The American people deserve no less.

The material previously referred to by Ms. SLAUGHTER is as follows:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

"This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

PREVIOUS QUESTION FOR H. RES. 1042

H.R. 6166—MILITARY COMMISSIONS ACT OF 2006

Strike all after the resolved clause and insert in lieu thereof the following:

Resolved, That at any time after the adoption of this resolution the Speaker may, pur-

suant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 6166) to amend title 10, United States Code, to authorize trial by military commission for violations of the law of war, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed two hours equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Armed Services. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. The amendment printed in Section 2 of this resolution shall be considered as adopted. No other amendments shall be in order except those printed in Section 3 of this resolution. Each such amendment may be offered only in the order printed in Section 3, may be offered only by the Member designated or a designee, shall be considered as read, shall be debatable 60 minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendment considered as adopted in Section 1 is as follows:

Page 18, line 21, strike "violate" and all that follows through the end of line 24 and insert "amount to cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005."

Page 20, line 13, insert "examine and" after "and to".

Page 27, line 19, strike "military counsel detailed" and insert "detailed military counsel".

Page 81, line 3, strike "36(b)" and insert "36".

Page 91, line 22, strike the closing quotation marks and second period.

Page 91, after line 22 insert the following new paragraph:

"(5) DEFINITION OF GRAVE BREACHES.—The definitions in this subsection are intended only to define the grave breaches of common Article 3 and not the full scope of United States obligations under that Article."

SEC. 3. The amendments referred to in Section 1 are as follows:

(a) Amendment to be offered by Representative Meehan of Massachusetts

AMENDMENT TO H.R. 6166 OFFERED BY MR. MEEHAN OF MASSACHUSETTS

In section 950j of title 10, United States Code, as added by section 3(a)(1) of the bill—

(1) strike "(a) FINALITY.—"; and

(2) strike subsection (b).

Strike section 7 (relating to habeas corpus matters).

(b) Amendment to be offered by Representative Tauscher of California

AMENDMENT TO H. R. 6166

OFFERED BY MRS. TAUSCHER OF CALIFORNIA

Strike section 6 (relating to implementation of treaty obligations).

(c) Amendment to be offered by Representative Loretta Sanchez of California

AMENDMENT TO H.R. 6166

OFFERED BY MS. LORETTA SANCHEZ OF CALIFORNIA

Strike sections 950c through 950j of title 10, United States Code, as added by section 3(a)(1) (page 51, line 10, and all that follows through page 61, line 15), and insert the following (and conform the table of sections at the beginning of subchapter VI, as added by section 3(a)(1) (page 46, after line 20, through page 47, before line 1), accordingly):

“§ 950c. Waiver or withdrawal of appeal

“(a) WAIVER OF RIGHT OF REVIEW.—(1) An accused may file with the convening authority a statement expressly waiving the right of the accused to appellate review by the United States Court of Appeals for the Armed Forces under section 950f(a) of this title of the final decision of the military commission under this chapter.

“(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

“(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice of the action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

“(b) WITHDRAWAL OF APPEAL.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

“(c) EFFECT OF WAIVER OR WITHDRAWAL.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

“§ 950d. Appeal by the United States

“(a) INTERLOCUTORY APPEAL.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the United States Court of Appeals for the Armed Forces under section 950f of this title of any order or ruling of the military judge that—

“(A) terminates proceedings of the military commission with respect to a charge or specification;

“(B) excludes evidence that is substantial proof of a fact material in the proceeding; or

“(C) relates to a matter under subsection (c) or (d) of section 949d of this title.

“(2) The United States may not appeal under paragraph (1) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

“(b) NOTICE OF APPEAL.—The United States shall take an appeal of an order or ruling under subsection (a) by filing a notice of appeal with the military judge within five days after the date of the order or ruling.

“(c) APPEAL.—An appeal under this section shall be forwarded, by means specified in regulations prescribed the Secretary of Defense, directly to the United States Court of Appeals for the Armed Forces. In ruling on an appeal under this section, the Court may act only with respect to matters of law.

“§ 950e. Rehearings

“(a) COMPOSITION OF MILITARY COMMISSION FOR REHEARING.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

“(b) SCOPE OF REHEARING.—(1) Upon a rehearing—

“(A) the accused may not be tried for any offense of which he was found not guilty by the first military commission; and

“(B) no sentence in excess of or more than the original sentence may be imposed unless—

“(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

“(ii) the sentence prescribed for the offense is mandatory.

“(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

“§ 950f. Review by United States Court of Appeals for the Armed Forces and Supreme Court

“(a) REVIEW BY UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subject to the provisions of this subsection, the United States Court of Appeals for the Armed Forces shall have exclusive jurisdiction to determine the final validity of any judgment rendered by a military commission under this chapter.

“(2) The United States Court of Appeals for the Armed Forces may not determine the final validity of a judgment of a military commission under this subsection until all other appeals from the judgment under this chapter have been waived or exhausted.

“(3)(A) An accused may seek a determination by the United States Court of Appeals for the Armed Forces of the final validity of the judgment of the military commission under this subsection only upon petition to the Court for such determination.

“(B) A petition on a judgment under subparagraph (A) shall be filed by the accused in the Court not later than 20 days after the date on which written notice of the final decision of the military commission is served on the accused or defense counsel.

“(C) The accused may not file a petition under subparagraph (A) if the accused has waived the right to appellate review under section 950c(a) of this title.

“(4) The determination by the United States Court of Appeals for the Armed Forces of the final validity of a judgment of a military commission under this subsection shall be governed by the provisions of section 1005(e)(3) of the Detainee Treatment Act of 2005 (42 U.S.C. 801 note).

“(b) REVIEW BY SUPREME COURT.—The Supreme Court of the United States may review by writ of certiorari pursuant to section 1257 of title 28 the final judgment of the United States Court of Appeals for the Armed Forces in a determination under subsection (a).

“§ 950g. Appellate counsel

“(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications of counsel for appearing before military commissions under this chapter.

“(b) REPRESENTATION OF UNITED STATES.—Appellate counsel may represent the United States in any appeal or review proceeding under this chapter. Appellate Government counsel may represent the United States before the Supreme Court in case arising under this chapter when requested to do so by the Attorney General.

“(c) REPRESENTATION OF ACCUSED.—The accused shall be represented before the United States Court of Appeals for the Armed Forces or the Supreme Court by military appellate counsel, or by civilian counsel if retained by him.

“§ 950h. Execution of sentence; suspension of sentence

“(a) EXECUTION OF SENTENCE OF DEATH ONLY UPON APPROVAL BY THE PRESIDENT.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

“(b) EXECUTION OF SENTENCE OF DEATH ONLY UPON FINAL JUDGMENT OF LEGALITY OF PROCEEDINGS.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until there is a final judgement as to the legality of the proceedings (and with respect to death, approval under subsection (a)).

“(2) A judgement as to legality of proceedings is final for purposes of paragraph (1) when—

“(A) the time for the accused to file a petition for review by the United States Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by the Court; or

“(B) review is completed in accordance with the judgment of the United States Court of Appeals for the Armed Forces and (A) a petition for a writ of certiorari is not timely filed, (B) such a petition is denied by the Supreme Court, or (C) review is otherwise completed in accordance with the judgment of the Supreme Court.

“(c) SUSPENSION OF SENTENCE.—The Secretary of the Defense, or the convening authority acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

“§ 950i. Finality of proceedings, findings, and sentences

“(a) FINALITY.—The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, except as otherwise provided by the President.

“(b) PROVISIONS OF CHAPTER SOLE BASIS FOR REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of enactment of this chapter, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.”.

Mr. COLE of Oklahoma. Mr. Speaker, I yield back the balance of my time and move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. BOEHNER. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 483) providing for an adjournment or recess of the two Houses, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 483

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, September 29, 2006, Saturday, September 30, 2006, or Sunday, October 1, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Thursday, November 9, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the House adjourns on the legislative day of Thursday, November 9, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, November 13, 2006, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the Senate recesses or adjourns on any day from Friday, September 29, 2006, through Wednesday, October 4, 2006, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Thursday, November 9, 2006, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, November 9, 2006, on a motion offered by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, November 13, 2006, or Tuesday, November 14, 2006, as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on House Concurrent Resolution 483 will be followed by 5-minute votes on ordering the previous question on H. Res. 1042; and on adoption of H. Res. 1042, if ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 194, not voting 11, as follows:

[Roll No. 487]

YEAS—227

Aderholt	Gingrey	Nussle
Akin	Gohmert	Osborne
Alexander	Goode	Otter
Bachus	Goodlatte	Oxley
Baker	Granger	Paul
Barrett (SC)	Graves	Pearce
Bartlett (MD)	Green (WI)	Pence
Barton (TX)	Gutknecht	Peterson (PA)
Bass	Hall	Petri
Beauprez	Harris	Pickering
Biggart	Hart	Pitts
Bilbray	Hastings (WA)	Platts
Bilirakis	Hayes	Poe
Bishop (UT)	Hayworth	Pombo
Blackburn	Hefley	Porter
Blunt	Hensarling	Price (GA)
Boehlert	Herger	Pryce (OH)
Boehner	Hobson	Putnam
Bonilla	Hoekstra	Radanovich
Bonner	Hostettler	Ramstad
Bono	Hulshof	Regula
Boozman	Hunter	Rehberg
Boustany	Hyde	Reichert
Bradley (NH)	Inglis (SC)	Renzi
Brady (TX)	Issa	Reynolds
Brown (SC)	Istook	Rogers (AL)
Brown-Waite,	Jenkins	Rogers (KY)
Ginny	Jindal	Rogers (MI)
Burgess	Johnson (CT)	Rohrabacher
Burton (IN)	Johnson (IL)	Ros-Lehtinen
Buyer	Johnson, Sam	Royce
Calvert	Jones (NC)	Ryan (WI)
Camp (MI)	Keller	Ryun (KS)
Campbell (CA)	Kelly	Saxton
Cannon	Kennedy (MN)	Schmidt
Cantor	King (IA)	Schwarz (MI)
Capito	King (NY)	Sensenbrenner
Carter	Kingston	Sessions
Chabot	Kirk	Shadeegg
Chocola	Kline	Shaw
Coble	Knollenberg	Shays
Cole (OK)	Kolbe	Sherwood
Conaway	Kuhl (NY)	Shimkus
Crenshaw	LaHood	Shuster
Cubin	LaTham	Simmons
Davis (KY)	LaTourette	Simpson
Davis, Jo Ann	Leach	Smith (NJ)
Davis, Tom	Lewis (CA)	Smith (TX)
Deal (GA)	Lewis (KY)	Sodrel
Dent	Linder	Souder
Diaz-Balart, L.	LoBiondo	Stearns
Diaz-Balart, M.	Lucas	Sullivan
Doolittle	Lungren, Daniel	Sweeney
Drake	E.	Tancredo
Dreier	Mack	Taylor (NC)
Duncan	Manzullo	Terry
Ehlers	Marchant	Thomas
Emerson	McCauley (TX)	Thornberry
English (PA)	McCotter	Tiahrt
Everett	McCrery	Tiberi
Feeney	McHenry	Turner
Ferguson	McHugh	Upton
Fitzpatrick (PA)	McKeon	Walden (OR)
Flake	McMorris	Walsh
Foley	Rodgers	Wamp
Forbes	Mica	Weldon (FL)
Fortenberry	Miller (FL)	Weldon (PA)
Fossella	Miller (MI)	Weller
Fox	Miller, Gary	Westmoreland
Franks (AZ)	Moran (KS)	Whitfield
Frelinghuysen	Murphy	Wicker
Galleghy	Musgrave	Wilson (NM)
Garrett (NJ)	Myrick	Wilson (SC)
Gerlach	Neugebauer	Wolf
Gibbons	Northup	Young (AK)
Gilchrest	Norwood	Young (FL)
Gillmor	Nunes	

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon

NAYS—194

Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey

NOT VOTING—11

Cardin
Castle
Cleaver
Culberson
Davis (FL)
Jackson-Lee
(TX)
Lewis (GA)
Meehan
Millender-
 McDonald
Ney
Strickland

□ 1307

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6166, MILITARY COMMISSIONS ACT OF 2006

The SPEAKER pro tempore (Mr. SHIMKUS). The pending business is the vote on ordering the previous question on House Resolution 1042, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.